

## FINAL STATEMENT OF REASONS

### **AB 47 Mapping Requirement, 2004**

#### **Title 14 of the California Code of Regulations (14 CCR):**

##### **Amend:**

14 CCR § 912.9 [932.9, 952.9] Cumulative Impacts Assessment Checklist, Board of Forestry and Fire Protection Technical Rule Addendum No. 2, Cumulative Impacts Assessment, Past and Future Activities, A.

##### **UPDATED INFORMATION: OVERVIEW OF FINAL ADOPTED REGULATORY ACTION**

On September 1, 2004, after reviewing comment and correspondence from concerned citizens and other agencies, and considering testimony presented at a public hearing, the State Board of Forestry and Fire Protection (Board) adopted amendments to the Forest Practice Rules (FPRs) as proposed in its public notice published on June 25, 2004. The adopted regulation is statutorily required by enactment of California Assembly Bill (AB) 47 which adds Section 4551.9 to the Public Resource Code in 2003.

The adopted changes to the FPRs are related to amending the Board of Forestry Technical Rule Addendum No. 2, Cumulative Impacts Assessment, Past and Future Activities. The technical rule addendum is located within 14 CCR § 912.9 [932.9, 952.9] and referenced in section 14 CCR § 898 of the FPRs. The regulation amends subsection A., Past and Future Activities, to include map(s) and associated legend(s) depicting location and boundaries of past, present, and reasonably foreseeable future timber harvesting projects on land owned or controlled by the timberland owner within the planning watershed of the proposed project.

The final adopted regulation language included changes that were determined by the Board to have been non substantial in accordance with Government Code (GC) § 11346.8(c). The following changes to the regulation language in the 45 day notice published on June 25, 2004 are as follows:

- **Amended part A. of the Technical Rule Addendum No. 2 instead of adding a part C.**

All adopted rule language amendments were incorporated into Section A., *Technical Rule Addendum No. 2, Cumulative Impacts Assessment, Past and Future Activities*, instead of adding a Section C. This change was included as the new language stemming from the enabling legislation elaborates on the existing requirement of Section A. to “briefly describe the location” of projects considered in the assessment. The Board found that the adopted language would more appropriately be located in Section A. listed above.

➤ **Grammatical edits made to language for THP number requirements (part A. 4.);**

Grammatical edits were made rearranging sentence wording to more clearly and simply state the intended requirement that THP numbers associated with the mapped silviculture activity shall be referenced in the legend or an annotated list.

➤ **Selected a mapping scale of 1:63,360 or less and made grammatical edits to eliminate redundant reference to mapping one planning watershed per page.**

The Board selected Option 1 contained in the language published in the 45 day notice. This option requires the mapping scale to be no greater than 1:63,340 or any scale less than 1:63,340 to improve mapping clarity. The Board found this option meets the objectives of providing clarity of mapped information while providing flexibility to use other more visible mapping scales. Additionally, the Board deleted a redundant sentence referring to maps displaying one planning watershed per page.

**ALTERNATIVES TO THE REGULATION CONSIDERED BY THE BOARD AND THE BOARD'S REASONS FOR REJECTING THOSE ALTERNATIVES**

The Board has considered alternatives to the proposed regulation. The alternatives primarily relate to differing mapping standards that fulfill the requirements of the PRC, provide the most useful information for analysis, and minimize the economic impact of the mapping to affected individuals and businesses.

**Alternative #1: Detailed base map with extensive geographic features.** This alternative recommended using a 1: 24,000 scale United States Geologic Survey (USGS ) 7.5 minute quadrangle map or equivalent features as the standard base map convention, which would provide detailed information on which electronic Geographic Information System (GIS) boundaries could be placed and likewise derived. This alternative was rejected because it duplicates information contained elsewhere in the plan, would require multiple maps to represent a single planning watershed, would be visually difficult to interpret, and ultimately is in excess of what the legislation requirements.

**Alternative #2: Small scale map with generalized silviculture.** This alternate would allow map scales of up to 1:63,000 and representation of generalized silvicultural activities. This alternative would facilitate ease in preparation and lessen total cost, but was determined to be of limited analytical value and not keeping with the legislation's intent.

**Alternative #3: Electronic submission of legislatively required information in GIS format.** Submission of GIS data would ensure the reviewing agencies and plan submitters use the same spatial representation of areas and types of timber harvesting for purposes of review and assessment, and eliminate the re-creation of GIS data by the California Department of Forestry and Fire Protection (CDF) and the potential for errors and omissions inherent in that process.

Use of a GIS to produce the map product is not a requirement of the regulation, though is often the most practical way to generate and convey complex geographical information, such as past land use activities. Substantial investment has been made in the equipment and professional labor used to create maps and databases for the existing and proposed regulatory requirements. Providing these types of information to government free of charge is a cost impact to businesses and individuals, though that cost has not been quantified. Providing data in GIS format is not part of the enabling legislation.

**Alternative #4: Exempt small landowners from the requirement.** Small landowners do not have the same resources as large industrial landowners and may find the creation of such a map a burden. Cumulative impacts cannot be assessed without thorough review of all past and proposed activities. Impacts cannot automatically be qualified based on size of ownership. Small landowners are not exempt from Board of Forestry Technical Rule Addendum No. 2, Cumulative Impacts Assessment, Past and Future Activities subsections A. and B., which requires the same information in tabular form. Resources exist to assist the small landowner in obtaining the required information.

**Alternative #5: Exclude mapping requirements for THPs produced from separate Environmental Impact Reports:** Appropriately prepared and approved Programmatic Timber Environmental Impact Reports ( PTEIRs) and other programmatic-level documents are certified by the Director as having conducted independent cumulative effects analysis to meet CEQA requirements. This CWE is similar to the CWE requirements of the THP in accordance with Technical Rule Addendum No. 2. Such analysis likely meets or has met the intent of AB 47 to provide information for analysis of potential cumulative watershed effects. This alternate would permit exclusion of the mapping requirements to ownerships where a PTEIR or other programmatic-level document, such as a Non Industrial Timber Management Plan or Sustained Yield Plan, contains information which the director has determined to be equivalent to that specified in AB 47. This alternative would provide economic relief to landowners submitting Programmatic Timber Harvest Plan (in accordance with the PTEIR) by not requiring them to create a specific map when a CWE analysis has already been done and certified. This alternative was rejected as the statutory provisions of AB 47 do not provide for CWE analysis that does not use a map as part of the analysis.

**Alternative #6: Minimum map scale of 1:48,000.** This alternate would allow map scales of up to 1:48,000. Such a scale was suggested to be necessary to provide interpretable locations of past or future projects. This alternative would facilitate ease in interpretation of information used by agencies and the public in determining potential cumulative watershed impacts. However, the scale would result in increasing mapping costs as more detailed information and many more planning watershed maps would be necessary. Additionally, this scale is not a common mapping metric, as it does not represent a convenient unit of measure, such as 1 inch equaling one mile.

## **POSSIBLE SIGNIFICANT ADVERSE ENVIRONMENTAL EFFECTS AND MITIGATIONS**

The Board has not identified any adverse environmental effects as a result of the proposed rules. These rules are expressly developed to improve protection of resources by improving the analysis of cumulative impacts as outlined in 14 CCR § 912.9(932.9, 952.9). They do not directly permit any additional activity or project with a significant adverse impact to the environment.

## **ALTERNATIVES CONSIDERED TO THE PROPOSED REGULATORY ACTION**

Pursuant to GC section 11346.9(a)(4), the Board has determined that no other alternative it considered would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board has identified alternatives that would lessen any adverse economic impact on small businesses. These include:

**Alternative #2: Small scale map with generalized silviculture.** This alternate would allow map scales of up to 1:63,000 and representation of generalized silvicultural activities. Cost savings to small businesses under this alternative are obtained by permitting a mapping scale routinely used by THP submitters (1:63,340 equates to 1 inch per mile) and avoiding detailed mapping work associated with larger scales (e.g. 1:24,000). By permitting labeling mapped areas by general silviculture method, additional legend typing, maps or narratives needed to describe the specific harvest method (e.g. clearcut) associated with general silvicultural method (e.g. even aged systems) would be avoided.

**Alternative #4: Exempt small landowners from the requirement.** This alternative would not require small landowners to include the mapping requirements. Small landowners do not have the same resources as large industrial landowners and may find the creation of such a map an unreasonable cost burden. By exempting small landowners the cost associated with the mapping would be avoided.

## **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS**

The Board estimated that this regulation will have minor adverse economic impact on businesses. The impacted businesses are the landowners who hire Registered Professional Foresters (RPFs) to prepare THPs. The amendment generally requires an additional map to be produced by RPFs as part of the THP.

Since the information used to make the map is already required by the existing Technical Rule Addendum No. 2, Cumulative Impacts Assessment, additional economic impact is related primarily to the cost of mapping the previously researched and documented past and future activities.

The cost of mapping is somewhat mitigated as the CDF Regional Offices in the Coast Area and the Southern Region have readily available GIS information or provided related services on the past private THP activities. The CDF Cascade Area is currently acquiring the infrastructure to undertake timber harvesting data development, which will be made available as it is completed.

The estimated costs related to the additional mapping work is likely to range from a low of a few hours of RPF work (\$250) for hand drawn maps with few previous projects in the planning watershed to an upper range involving multiple planning watersheds with substantial past projects. Plan submitters using GIS as a means to create the maps may undertake a multi-day cartographic development process, likely to cost \$500 to \$1000.

However, once mapping protocols are established and maps developed for a particular planning watershed can be used for multiple proposed projects, the cost per plan would diminish. With nearly 700 THPs approved in 2003, total economic impact to the combined pool of businesses and individual submitting THPs could be over \$500,000 dollars per year. Economic impact to any one business would be dependant on the number of THPs filed and the geographic extent of their ownership. Small landowners who file few THPs could potentially be impacted by expending an additional few thousand of dollars each year. If an average THP cost \$25,000 to prepare, this regulation imposes a 1-4 percent increase in cost of regulatory filings.

#### **ADDITIONAL RELEVANT DOCUMENTS RELIED UPON**

The following are additional documents were provided for the Board's consideration during the rulemaking process to supplement previous information submitted to the Board and referenced in the *Initial Statement of Reasons*: None.

#### **DISCLOSURES REGARDING THE PROPOSED ACTION**

The Board has determined the adopted action will have the following effects:

Mandate on local agencies and school districts: None are known.

Costs or savings to any State agency: An additional fiscal impact is anticipated to the California Department of Forestry and Fire Protection estimated to be \$45,000 per year to review, inventory and evaluate the information on additional maps. There is also a one time cost of \$10,000 to the Board of Forestry and Fire Protection to adopt the regulations.

Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500: None are known.

Other non-discretionary cost or savings imposed upon local agencies: None are known.

Cost or savings in federal funding to the State: None

Significant adverse economic impact on business, including the ability of California businesses to compete with businesses in other states: None are known.

Potential cost impact on private persons or directly affected businesses: Minor.

Significant effect on housing costs: None are known.

Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

The proposed rules do not conflict with, or duplicate Federal regulations.

**Pursuant to Government Code § 11346.2(b)(5)**: In order to avoid unnecessary duplication or conflicts with federal regulations contained in the Code of Federal Regulations addressing the same issues as those addressed under the proposed regulation revisions listed in this *Statement of Reasons*; the Board has directed the staff to review the Code of Federal Regulations. The Board staff determined that no unnecessary duplication or conflict exists.

## **SUMMARY OF LAWS RELATING TO THE REGULATION**

The Z'berg - Nejedly Forest Practice Act of 1973 (ref. Division 4, Chapter 8 of the Public Resources Code) establishes the State's interest in the use, restoration, and protection of the forest resources. In this Act, Legislature stated its intent to create and maintain an effective and complete system of regulation for all timberlands. Public Resources Code Sections 4512, 4513 and 4551, gives the Board the authority to adopt such rules and regulations necessary to assure continuous growing and harvesting of commercial forest tree species; and to protect the soil, air, fish, wildlife and water resources.

The proposed amendment is statutorily required by enactment of California Assembly Bill (AB) 47 which adds Section 4551.9 to the Public Resource Code in 2003.

## **PUBLIC COMMENTS AND RESPONSE**

See: Response to 45 Day Notice Public and Hearing Comments

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